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September 12, 2016

Attn: Ms. Shirley Liggins
NC Department of Environmental Quality
Division of Waste Management
Brownfields Program
217 W Jones Street
Raleigh, NC 27603

Dear Ms. Liggins:

I represent 511 N. 3rd, LLC.

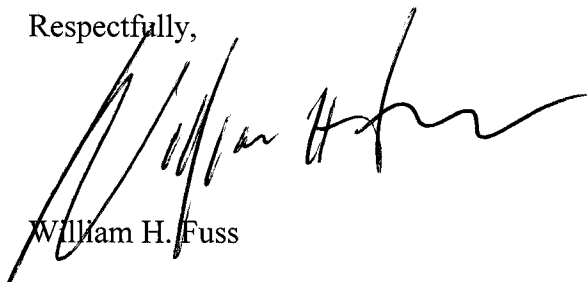
In accordance with the attached letter please find enclosed;

- 1) a true and correct copy of the Notice of Brownsfiel Property: and
- 2) a full sized copy of the recorded plat containing the notations of the New Hanover County Register of Deeds indicating its recording.

I attempted to contact you last Friday, September 9th conering this matter. Our Register of Deeds would not execute page 6, claiming they had not done so in years.

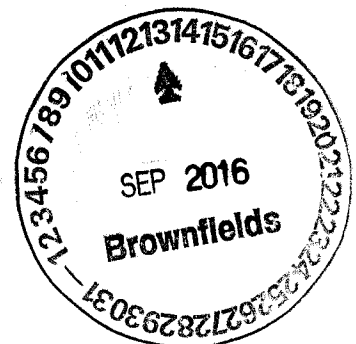
Please contact me with questions.

Respectfully,



William H. Fuss

cc. Stephen A. King



BK: RB 6000

PG: 1220-1248

RECORDED:

09-08-2016

02:36:12 PM

BY: ANDREA CRESWELL

ASSISTANT



2016028993

NEW HANOVER COUNTY, NC

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

NC FEE \$78.00

Property Owner: 511 N 3rd, LLC

Recorded in Book ~~6000~~ Page 1220

Associated plat recorded in Plat Book 62, Page 71-73

NOTICE OF BROWNFIELDS PROPERTY

Site Name: Allen's Farm Supply

Brownfields Project Number: 18024-14-065

This documentary component of a Notice of Brownfields Property ("Notice"), as well as the plat component, have been filed this 8 day of September, 2016 by 511 N 3rd, LLC.

This Notice concerns contaminated property.

A copy of this Notice certified by the North Carolina Department of Environmental Quality ("DEQ") is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to North Carolina General Statutes ("NCGS"), § 130A-310.35(b).

This Notice is required by NCGS § 130A-310.35(a), in order to reduce or eliminate the danger to public health or the environment posed by environmental contamination at a property ("Brownfields Property") being addressed under the Brownfields Property Reuse Act of 1997, NCGS § 130A, Article 9, Part 5 ("Act").

Pursuant to NCGS § 130A-310.35(b), the Prospective Developer must file a certified copy of this Notice within 15 days of Prospective Developer's receipt of DEQ's approval of the Notice or Prospective Developer's entry into the Brownfields Agreement required by the Act, whichever is later. Pursuant to NCGS § 130A-310.35(c), the copy of the Notice certified by DEQ must be recorded in the grantor index under the names of the owners of the land and, if Prospective Developer is not the owner, also under the Prospective Developer's name.

The Brownfields Property is located at 511 North 3rd Street, Wilmington, New Hanover County, North Carolina. The Property is comprised of 0.2894 acres and is the former location of Allen's Farm Supply. Initial plans are to redevelop the Property for mixed-use purposes containing commercial and residential components.

The Brownfields Agreement between Prospective Developer and DEQ is attached hereto as Exhibit

A. It sets forth the use that may be made of the Brownfields Property and the measures to be taken to protect public health and the environment, and is required by NCGS § 130A-310.32. The Brownfields Agreement's Exhibit 2 consists of one or more data tables reflecting the concentrations of and other information regarding the Property's regulated substances and contaminants.

Attached as **Exhibit B** to this Notice is a reduction, to 8 1/2" x 11", of the survey plat component of this Notice. This plat shows areas designated by DEQ, has been prepared and certified by a professional land surveyor, meets the requirements of NCGS § 47-30, and complies with NCGS § 130A-310.35(a)'s requirement that the Notice identify:

- (1) The location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (2) The type, location and quantity of regulated substances and contaminants known to exist on the Brownfields Property.

Attached hereto as **Exhibit C** is a legal description of the Brownfields Property that would be sufficient as a description of the property in an instrument of conveyance.

LAND USE RESTRICTIONS

NCGS § 130A-310.35(a) also requires that the Notice identify any restrictions on the current and future use of the Brownfields Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Brownfields Property and that are designated in the Brownfields Agreement. **The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DEQ (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 130A-310.35(e). All references to DEQ shall be understood to include any successor in function. The restrictions are hereby imposed on the Brownfields Property, and are as follows:**

1. No use may be made of the Property other than for commercial and residential purposes. For purposes of this restriction, the following definitions apply:

- i. Commercial – Refers to an enterprise carried on for profit by the owner, lessee or licensee; and
- ii. Residential – Refers to single and multi-unit human dwellings, such as duplexes, triplexes, quadriplexes, condominiums, town homes, dormitory or apartments.

2. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior sampling and analysis of groundwater to the written satisfaction of DEQ in any areas proposed for such activities, and submittal of the analytical results to DEQ. If such results reflect contaminant concentrations that exceed the standards and screening levels applicable to the uses authorized for the Property, the groundwater-related activities proposed may only occur in compliance with any written conditions DEQ imposes.

3. No basements may be constructed on the Property unless they are, as determined in writing by DEQ, vented in conformance with applicable building codes.

4. None of the contaminants known to be present in the environmental media at the Property, including those appearing in Exhibit 2 to the Agreement, may be used or stored at the Property without the prior written approval of DEQ, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

5. The owner of any portion of the Property where any existing, or subsequently installed, DEQ-approved monitoring well is damaged shall be responsible for repair of any such wells to DEQ's written satisfaction and within a time period acceptable to DEQ.

6. Neither DEQ, nor any party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DEQ, may be denied access to the Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Property.

7. During January of each year after the year in which this Notice is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DEQ, and to the chief public health and environmental officials of New Hanover County, certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the New Hanover County Register of Deeds office and that the land use restrictions are being complied with, and stating:

- i. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year; and
- ii. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year.

For purposes of the land use restrictions set forth above, the DEQ point of contact shall be the DEQ official referenced in paragraph 32.a. of Exhibit A hereto, at the address stated therein.

ENFORCEMENT

The above land use restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land use restrictions shall be enforced by any owner of the Brownfields Property. The land use restrictions may also be enforced by DEQ through the remedies provided in NCGS § 130A, Article 1, Part 2 or by means of a civil action; by any unit of local government having jurisdiction over any part of the Brownfields Property; and by any person eligible for liability protection under the Brownfields Property Reuse Act who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Notice without the approval of the Secretary of DEQ (or its successor in function), or his/her delegate, shall be subject to enforcement by DEQ to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a

waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Brownfields Property is sold, leased, conveyed or transferred, pursuant to NCGS § 130A-310.35(d) the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the Brownfields Property has been classified and, if appropriate, cleaned up as a brownfields property under the Brownfields Property Reuse Act.

IN WITNESS WHEREOF, Prospective Developer has caused this instrument to be duly executed this 1 day of Sept, 2016.

511 N 3rd, LLC

By:

Stephen A. King
Stephen A. King
Manager

NORTH CAROLINA

New Hanover COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Stephen A. King.

Date:

9-7-16

[Signature]
Official Signature of Notary



Eric D Dattler
Notary's printed or typed name, Notary Public

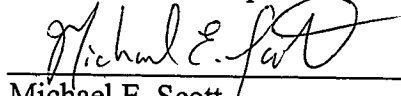
My commission expires: 8-27-21

APPROVAL AND CERTIFICATION OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY

The foregoing Notice of Brownfields Property is hereby approved and certified.

North Carolina Department of Environmental Quality

By:



Michael E. Scott

Director, Division of Waste Management

8/26/16

Date

CERTIFICATION OF REGISTER OF DEEDS

The foregoing documentary component of the Notice of Brownfields Property, and the associated plat, are certified to be duly recorded at the date and time, and in the Books and Pages, shown on the first page hereof.

Register of Deeds for New Hanover County

By: _____ 9/8/16
Name typed or printed: _____ Date
Deputy/Assistant Register of Deeds

*See recording information
on page 1 + trailer page.*

EXHIBIT A

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF: 511 N 3rd, LLC

UNDER THE AUTHORITY OF THE)	BROWNFIELDS AGREEMENT re:
BROWNFIELDS PROPERTY REUSE ACT)	<u>Former Allen's Farm Supply</u>
OF 1997, N.C.G.S. § 130A-310.30, <u>et seq.</u>)	<u>511 N. 3rd Street</u>
Brownfields Project # 18024-14-065)	<u>Wilmington, New Hanover County</u>

I. INTRODUCTION

This Brownfields Agreement ("Agreement") is entered into by the North Carolina Department of Environmental Quality ("DEQ") and 511 N 3rd, LLC (collectively the "Parties") pursuant to the Brownfields Property Reuse Act of 1997, N.C.G.S. § 130A-310.30, et seq. (the "Act").

511 N 3rd, LLC is a North Carolina limited liability company formed on June 17, 2014 and registered with the Secretary of State's office on June 25, 2014. Its registered North Carolina Agent is Mr. Stephan A. King, 2106 Medeira Ct., Wilmington, North Carolina 28405. The property is the former location of Allen's Farm Supply. Initial plans are to redevelop the site for mixed use purposes containing commercial and residential components. A map showing the location of the property which is the subject of this Agreement is attached hereto as Exhibit 1.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Section VIII (Certification), Section IX (DEQ's Covenant Not to Sue and Reservation of Rights) and Section X (Prospective Developer's Covenant Not to Sue), the

potential liability of 511 N 3rd, LLC for contaminants at the property which is the subject of this Agreement.

The Parties agree that 511 N 3rd, LLC's entry into this Agreement, and the actions undertaken by 511 N 3rd, LLC in accordance with the Agreement, do not constitute an admission of any liability by 511 N 3rd, LLC.

The resolution of this potential liability, in exchange for the benefit 511 N 3rd, LLC shall provide to DEQ, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in the Act or elsewhere in N.C.G.S. 130A, Article 9 shall have the meaning assigned to them in those statutory provisions, including any amendments thereto.

1. "Property" shall mean the Brownfields Property which is the subject of this Agreement, and which is depicted in Exhibit 1 to the Agreement.

2. "Prospective Developer" shall mean 511 N 3rd, LLC.

III. STATEMENT OF FACTS

3. The Property comprises 0.276 acres. Prospective Developer has committed itself to redevelopment for no uses other than commercial and residential.

4. The Property is bordered to the north by undeveloped commercial property owned by 518 North Second Street, LLC, to the south by commercial property owned by STK Properties, LLC and multi-family residential property owned by Riverwatch Apartments, LLC, to the east by 3rd Street, beyond which lies two commercial parcels, one owned by AREC 9, LLC and the other by M.M. Fowler, Inc. and a developed, but unused, parcel owned by the North Carolina

Department of Transportation, and to the west by two multi-family residential properties, one owned by Riverwatch Apartments, LLC, and the other by 518 North Second Street, LLC..

5. Prospective Developer obtained or commissioned the following reports, referred to hereinafter as the "Environmental Reports," regarding the Property:

Title	Prepared by	Date of Report
Comprehensive Site Assessment	EnviroAssessments, PLLC	January 29, 2008
Phase II Environmental Site Assessment	EnviroAssessments, PLLC	November 28, 2006

6. For purposes of this Agreement, DEQ relies on the following representations by Prospective Developer as to use and ownership of the Property:

- a. The property was reportedly originally developed as residential in the early 1900s and then operated as a grocery store.
- b. The site reportedly was then the location of Allen's Farm Supply from the 1950s until 2001.
- c. The property was sold by Jack W. Allen to Audubon Enterprises, LLC in May 1997.
- d. The property was purchased by Patricia S. Delair in January 2001 and used as a residence, office space, seamstress shop and cabinet shop.
- e. The property was transferred to Mr. Chris Delair in November 2015 from the estate of Ms. Delair following her death in May 2015.
- f. 511 N 3rd, LLC acquired the property on April 18, 2016.

g. The site is currently idle.

7. Pertinent environmental information regarding the Property includes the following:

a. Groundwater at the site is impacted with metals and volatile organic compounds (VOCs) at concentrations exceeding the North Carolina groundwater standards. The source of the contaminants is attributed to historical operations of the farm supply store and possibly an off-site source for the VOCs.

b. Soil at the site is impacted with arsenic at levels exceeding the current soil standards for residential use, but are consistent with naturally occurring concentrations for the region. The soil is also impacted with Total Petroleum Hydrocarbons in the Oil and Grease Range (TPH-Oil & Grease) at levels above action levels in place at the time of sampling.

c. One or more data tables reflecting the concentrations of and other information regarding the Property's regulated substances and contaminants appear in Exhibit 2 to this Agreement.

8. For purposes of this Agreement DEQ relies on Prospective Developer's representations that Prospective Developer's involvement with the Property has been limited to obtaining or commissioning the Environmental Reports, preparing and submitting to DEQ a Brownfields Letter of Intent dated June 6, 2014.

9. Prospective Developer has provided DEQ with information, or sworn certifications regarding that information on which DEQ relies for purposes of this Agreement, sufficient to demonstrate that:

a. Prospective Developer and any parent, subsidiary, or other affiliate has substantially complied with federal and state laws, regulations and rules for protection of the

environment, and with the other agreements and requirements cited at N.C.G.S. § 130A-310.32(a)(1);

b. as a result of the implementation of this Agreement, the Property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment;

c. Prospective Developer's reuse of the Property will produce a public benefit commensurate with the liability protection provided Prospective Developer hereunder;

d. Prospective Developer has or can obtain the financial, managerial and technical means to fully implement this Agreement and assure the safe use of the Property; and

e. Prospective Developer has complied with all applicable procedural requirements.

10. Prospective Developer has paid the \$2,000 fee to seek a brownfields agreement required by N.C.G.S. § 130A-310.39(a)(1), and shall make a payment to DEQ of \$6,000 at the time Prospective Developer and DEQ enter into this Agreement, defined for this purpose as occurring no later than the last day of the public comment period related to this Agreement. The Parties agree that the second payment shall constitute, within the meaning of N.C.G.S. § 130A-310.39(a)(2), the full cost to DEQ and the North Carolina Department of Justice of all activities related to this Agreement, unless a change is sought to a Brownfields document after it is in effect or additional services are required such as expedited review of a plan, in which case there shall be an additional fee of at least \$1,000.

IV. BENEFIT TO COMMUNITY

11. The redevelopment of the Property proposed herein would provide the following

public benefits:

- a. an increase in the Property's productivity;
- b. a spur to additional community redevelopment, through improved neighborhood appearance and otherwise;
- c. increase available jobs;
- d. tax revenue for affected jurisdictions;
- e. additional commercial and residential space for the area; and
- f. "smart growth" through use of land in an already developed area, which avoids development of land beyond the urban fringe ("greenfields").

V. WORK TO BE PERFORMED

12. Based on the information in the Environmental Reports, and subject to imposition of and compliance with the land use restrictions set forth below, and subject to Section IX of this Agreement (DEQ's Covenant Not to Sue and Reservation of Rights), DEQ is not requiring Prospective Developer to perform any active remediation at the Property.

13. By way of the Notice of Brownfields Property referenced below in paragraph 18, Prospective Developer shall impose the following land use restrictions under the Act, running with the land, to make the Property suitable for the uses specified in this Agreement while fully protecting public health and the environment. All references to DEQ shall be understood to include any successor in function.

a. No use may be made of the Property other than for commercial and residential purposes. For purposes of this restriction, the following definitions apply:

- i. Commercial – Refers to an enterprise carried on for profit by the owner,

lessee or licensee; and

ii. Residential – Refers to single and multi-unit human dwellings, such as duplexes, triplexes, quadriplexes, condominiums, town homes, dormitory or apartments.

b. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior sampling and analysis of groundwater to the written satisfaction of DEQ in any areas proposed for such activities, and submittal of the analytical results to DEQ. If such results reflect contaminant concentrations that exceed the standards and screening levels applicable to the uses authorized for the Property, the groundwater-related activities proposed may only occur in compliance with any written conditions DEQ imposes.

c. No basements may be constructed on the Property unless they are, as determined in writing by DEQ, vented in conformance with applicable building codes.

d. None of the contaminants known to be present in the environmental media at the Property, including those appearing in Exhibit 2 to this Agreement, may be used or stored at the Property without the prior written approval of DEQ, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

e. The owner of any portion of the Property where any existing, or subsequently installed, DEQ-approved monitoring well is damaged shall be responsible for repair of any such wells to DEQ's written satisfaction and within a time period acceptable to DEQ.

f. Neither DEQ, nor any party conducting environmental assessment or

remediation at the Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DEQ, may be denied access to the Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Property.

g. During January of each year after the year in which the Notice referenced below in paragraph 18 is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DEQ, and to the chief public health and environmental officials of New Hanover County, certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the New Hanover County Register of Deeds office and that the land use restrictions are being complied with, and stating:

i. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year; and

ii. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year.

14. The desired result of the above-referenced land use restrictions is to make the Property suitable for the uses specified in the Agreement while fully protecting public health and the environment.

15. The guidelines, including parameters, principles and policies within which the desired results are to be accomplished are, as to field procedures and laboratory testing, the

Guidelines of the Inactive Hazardous Sites Branch of DEQ's Superfund Section, as embodied in their most current version.

16. The consequence of achieving the desired results will be that the property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment. The consequence of not achieving the desired results will be that modifications to land use restrictions and/or remediation in some form may be necessary to fully protect public health and/or the environment.

VI. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

17. In addition to providing access to the Property pursuant to subparagraph 13.g. above, Prospective Developer shall provide DEQ, its authorized officers, employees, representatives, and all other persons performing response actions under DEQ oversight, access at all reasonable times to other property controlled by Prospective Developer in connection with the performance or oversight of any response actions at the Property under applicable law. While Prospective Developer owns the Property, DEQ shall provide reasonable notice to Prospective Developer of the timing of any response actions to be undertaken by or under the oversight of DEQ at the Property. Notwithstanding any provision of this Agreement, DEQ retains all of its authorities and rights, including enforcement authorities related thereto, under the Act and any other applicable statute or regulation, including any amendments thereto.

18. DEQ has approved, pursuant to N.C.G.S. § 130A-310.35, a Notice of Brownfields Property for the Property containing, inter alia, the land use restrictions set forth in Section V (Work to Be Performed) of this Agreement and a survey plat of the Property. Pursuant to N.C.G.S. § 130A-310.35(b), within 15 days of the effective date of this Agreement Prospective

Developer shall file the Notice of Brownfields Property in the __New Hanover__ County, North Carolina register of deeds' office. Within three (3) days thereafter, Prospective Developer shall furnish DEQ a copy of the documentary component of the Notice containing a certification by the register of deeds as to the Book and Page numbers where both the documentary and plat components of the Notice are recorded, and a copy of the plat with notations indicating its recordation.

19. This Agreement shall be attached as Exhibit A to the Notice of Brownfields Property. Subsequent to recordation of said Notice, any deed or other instrument conveying an interest in the Property shall contain the following notice: "The property which is the subject of this instrument is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the New Hanover County land records, Book ____, Page ____." A copy of any such instrument shall be sent to the persons listed in Section XV (Notices and Submissions), though financial figures related to the conveyance may be redacted.

20. The Prospective Developer shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section (Access/Notice To Successors In Interest), Section V (Work to be Performed) and Section XI (Parties Bound & Transfer/Assignment Notice) of this Agreement.

VII. DUE CARE/COOPERATION

21. The Prospective Developer shall exercise due care at the Property with respect to regulated substances and shall comply with all applicable local, State, and federal laws and

regulations. The Prospective Developer agrees to cooperate fully with any remediation of the Property by DEQ and further agrees not to interfere with any such remediation. In the event the Prospective Developer becomes aware of any action or occurrence which causes or threatens a release of contaminants at or from the Property, the Prospective Developer shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under N.C.G.S. 130A-310.1 and 143-215.85, and Section 103 of CERCLA, 42 U.S.C. § 9603, or any other law, immediately notify DEQ of such release or threatened release.

VIII. CERTIFICATION

22. By entering into this agreement, the Prospective Developer certifies that, without DEQ approval, it will make no use of the Property other than that committed to in the Brownfields Letter of Intent dated June 6, 2014 by which it applied for this Agreement. That use is commercial and residential use. Prospective Developer also certifies that to the best of its knowledge and belief it has fully and accurately disclosed to DEQ all information known to Prospective Developer and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any regulated substances at the Property and to its qualification for this Agreement, including the requirement that it not have caused or contributed to the contamination at the Property.

IX. DEQ'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

23. Unless any of the following apply, Prospective Developer shall not be liable to DEQ, and DEQ covenants not to sue Prospective Developer, for remediation of the Property except as specified in this Agreement:

- a. The Prospective Developer fails to comply with this Agreement.
- b. The activities conducted on the Property by or under the control or direction of the Prospective Developer increase the risk of harm to public health or the environment, in which case Prospective Developer shall be liable for remediation of the areas of the Property, remediation of which is required by this Agreement, to the extent necessary to eliminate such risk of harm to public health or the environment.
- c. A land use restriction set out in the Notice of Brownfields Property required under N.C.G.S. 130A-310.35 is violated while the Prospective Developer owns the Property, in which case the Prospective Developer shall be responsible for remediation of the Property to unrestricted use standards.
- d. The Prospective Developer knowingly or recklessly provided false information that formed a basis for this Agreement or knowingly or recklessly offers false information to demonstrate compliance with this Agreement or fails to disclose relevant information about contamination at the Property.
- e. New information indicates the existence of previously unreported contaminants or an area of previously unreported contamination on or associated with the Property that has not been remediated to unrestricted use standards, unless this Agreement is amended to include any previously unreported contaminants and any additional areas of contamination. If this Agreement sets maximum concentrations for contaminants, and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the contamination to public health or the environment to a level less protective of public

health and the environment than that required by this Agreement.

f. The level of risk to public health or the environment from contaminants is unacceptable at or in the vicinity of the Property due to changes in exposure conditions, including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the Property or (ii) the failure of remediation to mitigate risks to the extent required to make the Property fully protective of public health and the environment as planned in this Agreement.

g. The Department obtains new information about a contaminant associated with the Property or exposures at or around the Property that raises the risk to public health or the environment associated with the Property beyond an acceptable range and in a manner or to a degree not anticipated in this Agreement.

h. The Prospective Developer fails to file a timely and proper Notice of Brownfields Property under N.C.G.S. 130A-310.35.

24. Except as may be provided herein, DEQ reserves its rights against Prospective Developer as to liabilities beyond the scope of the Act.

25. This Agreement does not waive any applicable requirement to obtain a permit, license or certification, or to comply with any and all other applicable law, including the North Carolina Environmental Policy Act, N.C.G.S. § 113A-1, et seq.

X. PROSPECTIVE DEVELOPER'S COVENANT NOT TO SUE

26. In consideration of DEQ's Covenant Not To Sue in Section IX of this Agreement and in recognition of the absolute State immunity provided in N.C.G.S. § 130A-310.37(b), the Prospective Developer hereby covenants not to sue and not to assert any claims or causes of

action against DEQ, its authorized officers, employees, or representatives with respect to any action implementing the Act, including negotiating, entering, monitoring or enforcing this Agreement or the above-referenced Notice of Brownfields Property.

XI. PARTIES BOUND

27. This Agreement shall apply to and be binding upon DEQ, and on the Prospective Developer, its officers, directors, employees, and agents. Each Party's signatory to this Agreement represents that she or he is fully authorized to enter into the terms and conditions of this Agreement and to legally bind the Party for whom she or he signs.

XII. DISCLAIMER

28. This Agreement in no way constitutes a finding by DEQ as to the risks to public health and the environment which may be posed by regulated substances at the Property, a representation by DEQ that the Property is fit for any particular purpose, nor a waiver of Prospective Developer's duty to seek applicable permits or of the provisions of N.C.G.S. § 130A-310.37.

29. Except for the Land Use Restrictions set forth in paragraph 13 above and N.C.G.S. § 130A-310.33(a)(1)-(5)'s provision of the Act's liability protection to certain persons to the same extent as to a prospective developer, no rights, benefits or obligations conferred or imposed upon Prospective Developer under this Agreement are conferred or imposed upon any other person.

XIII. DOCUMENT RETENTION

30. The Prospective Developer agrees to retain and make available to DEQ all business and operating records, contracts, site studies and investigations, and documents relating to operations at the Property, for ten years following the effective date of this Agreement, unless

otherwise agreed to in writing by the Parties. At the end of ten years, the Prospective Developer shall notify DEQ of the location of such documents and shall provide DEQ with an opportunity to copy any documents at the expense of DEQ.

XIV. PAYMENT OF ENFORCEMENT COSTS

31. If the Prospective Developer fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section V (Work to be Performed), it shall be liable for all litigation and other enforcement costs incurred by DEQ to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

32. Unless otherwise required by DEQ or a Party notifies the other Party in writing of a change in contact information, all notices and submissions pursuant to this Agreement shall be sent by prepaid first class U.S. mail, as follows:

a. for DEQ:

Samuel P. Watson
N.C. Division of Waste Management
Brownfields Program
Mail Service Center 1646
Raleigh, NC 27699-1646

b. for Prospective Developer:

Stephan A. King
511 N 3rd, LLC
2106 Medeira Ct.
Wilmington, NC 28405

Notices and submissions sent by prepaid first class U.S. mail shall be effective on the third day following postmarking. Notices and submissions sent by hand or by other means affording

written evidence of date of receipt shall be effective on such date.

XVI. EFFECTIVE DATE

33. This Agreement shall become effective on the date the Prospective Developer signs it, after receiving it, signed, from DEQ. Prospective Developer shall sign the Agreement within seven (7) days following such receipt.

XVII. TERMINATION OF CERTAIN PROVISIONS

34. If any Party believes that any or all of the obligations under Section VI (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

35. With regard to claims for contribution against Prospective Developer in relation to the subject matter of this Agreement, Prospective Developer is entitled to protection from such claims to the extent provided by N.C.G.S. § 130A-310.37(a)(5)-(6). The subject matter of this Agreement is all remediation taken or to be taken and response costs incurred or to be incurred by DEQ or any other person in relation to the Property.

36. The Prospective Developer agrees that, with respect to any suit or claim for contribution brought by it in relation to the subject matter of this Agreement, it will notify DEQ in writing no later than 60 days prior to the initiation of such suit or claim.

37. The Prospective Developer also agrees that, with respect to any suit or claim for

contribution brought against it in relation to the subject matter of this Agreement, it will notify DEQ in writing within 10 days of service of the complaint on it.


XIX. PUBLIC COMMENT

38. This Agreement shall be subject to a public comment period of at least 30 days starting the day after the last to occur of the following: publication of the approved summary of the Notice of Intent to Redevelop a Brownfields Property required by N.C.G.S. § 130A-310.34 in a newspaper of general circulation serving the area in which the Property is located, conspicuous posting of a copy of said summary at the Property, and mailing or delivery of a copy of the summary to each owner of property contiguous to the Property. After expiration of that period, or following a public meeting if DEQ holds one pursuant to N.C.G.S. § 130A-310.34(c), DEQ may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

IT IS SO AGREED:

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

By:



Michael E. Scott
Director, Division of Waste Management

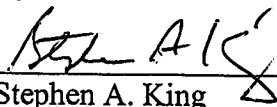
8/26/16

Date

IT IS SO AGREED:

511 N 3rd, LLC

By:















Stephen A. King
Manager

9-7-16

Date

BROWNFIELD'S PROPERTY BOUNDARY LINE

- | | |
|---|-----------------------------|
|  | PK NAIL SET |
|  | EXISTING IRON PIN |
|  | EIP |
|  | METAL FENCE |
|  | MONITORING WELL |
|  | MONITORING WELL IDW |
|  | SOIL BORING |
|  | SOIL BORING IDW |
|  | MONITORING WELL/SOIL BORING |
|  | NON SURVEYED LINE |
|  | SIDEWALK |
|  | GRASS & CUTLER |

518 N 2ND STREET, LLC
DB 5271 PG 1012-1015
PARCEL ID: R04716-007-004-000

518 N 2ND STREET, LLC
DB 2091 PG 603
PARCEL ID: R04813-030-008-000

RIVERWATCH APTS., LLC
 DB 3961 PG 382-386
 TRACT 2
 PARCEL ID: R04813-030-003-000

1. ANDRE S. DEGENOAT, CERTIFY THAT THIS MAP WAS PREPARED UNDER MY SUPERVISION FROM AN AERIAL ACTUAL SURVEY MADE UNDER MY SUPERVISION USING GPS AND TRADITIONAL FIELD PROCEDURES; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED BY DASHED LINES AS DRAWN FROM INFORMATION FOUND IN DEED BOOKS AS SHOWN; THAT THE RATIO OF PRECISION AS CALCULATED (1:121,000) IS 1:121,000 OR BETTER; CLASS A; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH GS 47-36 AS AMENDED.

I ALSO HEREBY CERTIFY THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.

WITNESS MY SIGNATURE, LICENSE NUMBER, AND SEAL
THIS _____ DAY OF _____, A.D., 2016

ANDRES, DEGROAT, PLS
N.C. PROFESSIONAL LAND SURVEYOR
LICENSE # L-3966

NGS MONUMENT "WADE"
SPC NC NAD 83 (2011)
N=185,203.54
E=2,318,394.53
CGF=1.000002869

THIS MAP IS NOT A CERTIFIED SURVEY AND
HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS

511 N. 3RD STREET

US 74 MILK PKWY

I-40

1. THIS SURVEY IS AN EXISTING PARCEL OR PARCELS OF LAND.
2. TOTAL AREA = 0.276 ACRES
3. ALL AREAS CALCULATED BY COORDINATE COMPUTATION METHOD.
4. THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ASTRICAL TITLE AND MATTERS OF TITLE SHOULD BE REFERRED TO A TITLWORTH AT LAW.
5. THIS SURVEY MAY BE SUBJECT TO ALL RIGHTS OF WAY, EASEMENTS, RESERVATIONS AND INTERESTS, RIGHTS AND INTERESTS, RECORDED AND UNRECORDED.
6. THESE CERTIFICATIONS SHOW HEREON ARE NOT A CERTIFICATION OF TITLE, ZONING OR PLANNING PURPOSES OR REQUIREMENTS.
7. ADDITIONAL PROPERTY OWNER INFORMATION OBTAINED FROM THE NEW HAMPSHIRE COUNTY RECORDS FOR THE PROPERTY, INCLUDING BUT NOT LIMITED TO, DEEDS AND RECORDS OF RECORD.
8. NO ENCUMBRANCES OR UTILITIES WERE LOCATED AS PART OF THIS SURVEY.
9. ALL DISTANCES SHOWN HEREON ARE HORIZONTAL GROUND DISTANCES IN US SURVEY FEET.
10. THE AREAS AND TYPES OF CONTAMINATION DEFICIT HEREON ARE APPROXIMATIONS DERIVED FROM THE BEST AVAILABLE INFORMATION AT THE TIME OF FILING A LITIGATION AND SHOULD NOT BE USED FOR ANY OTHER PURPOSES.
11. SOIL BORING LOCATIONS PROVIDED BY OTHERS.
12. THE AREAS AND TYPES OF CONTAMINATION DEFICIT HEREON ARE APPROXIMATIONS DERIVED FROM THE BEST AVAILABLE INFORMATION AT THE TIME OF FILING A LITIGATION AND SHOULD NOT BE USED FOR ANY OTHER PURPOSES.

SEE SHEET 3 FOR ADDITIONAL NOTES.

NC GRID
NAD 83 (2011)

REFERENCES:
PIN R04813-030-005-000
DB 2864 PG 92-94, TRACTS 1&2

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DATE _____

REVIEW OFFICER _____

**MICHAEL E. SCOTT, DIRECTOR
DIVISION OF WASTE MANAGEMENT
STATE OF NORTH CAROLINA**

DATE
WAKE COUNTY

Prospective Developer (511 N 3rd, LLC)

Amec Foster Wheeler Environment & Infrastructure, Inc.
401 STEELES CREEK DRIVE, SUITE 100
DUNSMuir, NC 27033
TEL: (919) 351-4000



amec
foster
wheeler

Map to G2111	1.E. LEE	P-431 TULSA	EXHIBIT B to the Notice of Brownfields Property
Project No.	A.S. BROWN		PIN WR04813-030-005-000
			511 N 3rd, LLC
			CITY OF TULSA, OKLAHOMA

PROJECT NO:	6440144157.A200
DATE:	04-04-2018
WEEK NO:	1 of 2

Exhibit C

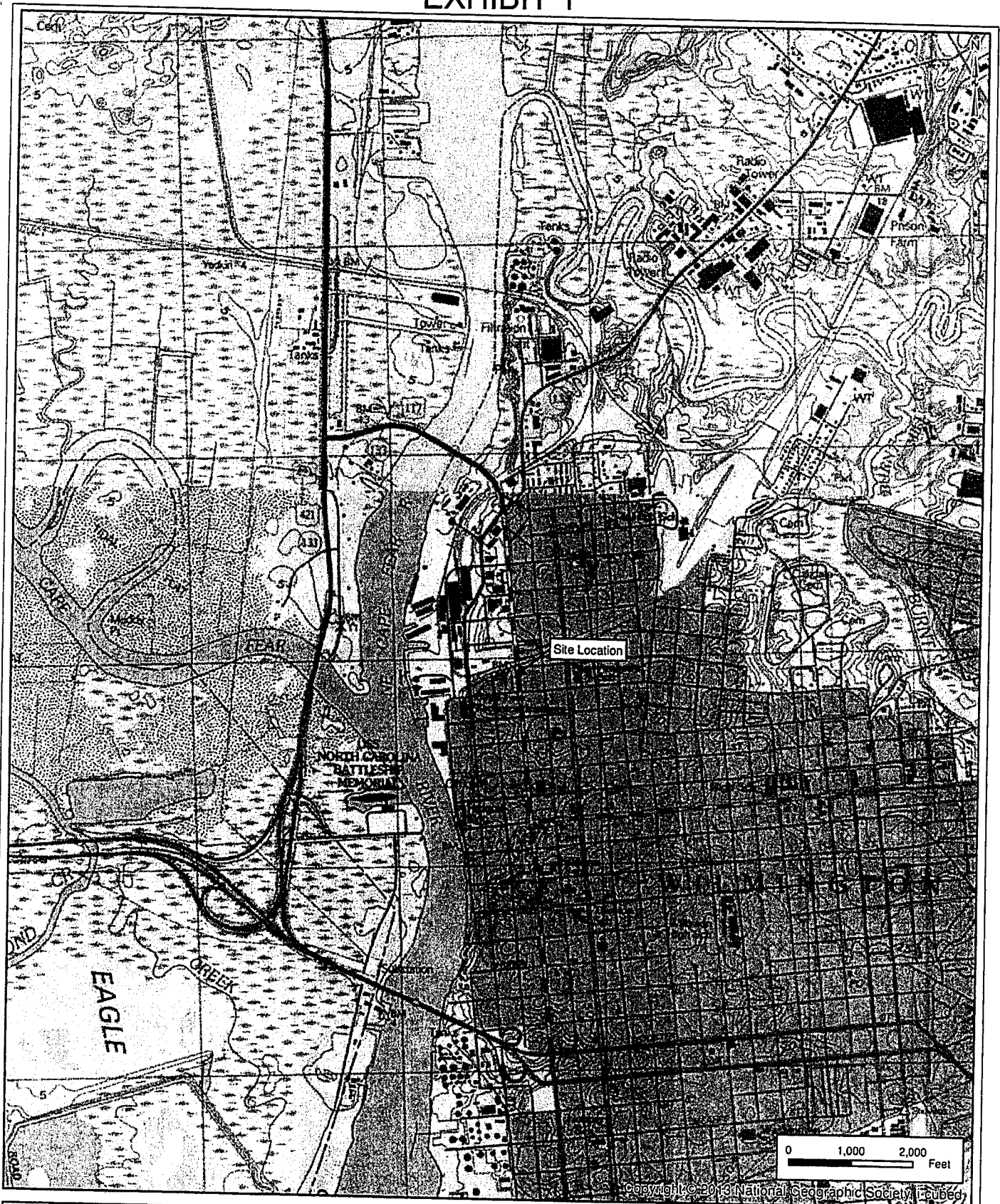
TRACT ONE:

BEGINNING at a point in the western line of Third Street sixtysix (66) feet from the southern line of Campbell Street, and running thence southwardly with and along the western line of Third Street sixtyfour (64) feet, thence westwardly and parallel with Campbell Street ninety (90) feet, thence northwardly and parallel with Third Street sixtyfour (64) feet and thence eastwardly and parallel with Campbell Street ninety (90) feet to the western line of Third Street, the point of beginning, the same being a part of the eastern half of Lot 2, block 233, according to the official plan of the City of Wilmington, North Carolina, together with all and singular the lands tenements, easements and appurtenances thereto belonging or in any wise appertaining. The above land was conveyed to Grantor by Deed recorded in Book number 1535 Page 0261 of the New Hanover County Registry.

TRACT TWO:

BEGINNING at a point in the western line of Third Street, one hundred thirty-four (134) feet northwardly from its intersection with the northern line of Red Cross Street, running thence westwardly and parallel with Red Cross Street, one hundred (100) feet thence northwardly and parallel with Third Street sixty-six (66) feet thence eastwardly and parallel with Red Cross Street one hundred (100) feet to the said western line of Third Street and thence southwardly along said western line of Third Street, sixty-six (66) feet to the point of beginning, same being parts of Lots 2 and 3 and Block 233 according to the official plan of the City of Wilmington, together with all and singular, the lands, tenements, easements and appertaining. The above land was conveyed to Grantor by Deed recording in Book number 1535 at Page 0261 of the New Hanover County Registry.

EXHIBIT 1



<p>AMEC Environment & Infrastructure, Inc. 4021 Stirrup Creek Drive, Suite 100 Durham, NC 27703 (919) 381-9900</p>	<p>TITLE: SITE LOCATION MAP</p>	<p>CLIENT: CITY OF WILMINGTON</p>	<p>FIGURE 1</p>
<p>amec</p>	<p>SITE: 511 NORTH 3RD STREET</p>	<p>SCALE: 1" = 2,000' DATE: 05/27/14 PROJECT: 568740000 CHECKED BY: H. Thurston</p>	

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS

Exhibit 2

The most recent environmental sampling at the Property reported in the Environmental Reports occurred in January 2008. The following tables set forth, for contaminants present at the Property above unrestricted use standards, the maximum concentration detected at each sample location and the applicable standard or screening limit:

GROUNDWATER

Groundwater contaminants in micrograms per liter (the equivalent of parts per billion), the standards for which are contained in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202; April 1, 2013 version:

Groundwater Contaminant	Sample Location	Date of Sampling	Maximum Concentration (µg/L)	Standard (µg/L)
Arsenic	MW-1	1/7/2008	20.4	10
Arsenic	MW-5D	1/7/2008	96.9	10
Barium	MW-1	11/10/2006	1360	700
Bromodichloromethane	MW-3	1/7/2008	2.98	0.6
Bromodichloromethane	MW-4	1/7/2008	3.27	0.6
Chromium	MW-1	1/7/2008	86.1	10
Chromium	MW-2	1/7/2008	12.8	10
Chromium	MW-4	1/7/2008	51.8	10
Chromium	MW-5D	1/7/2008	23.5	10
Chromium	MW-1	11/10/2006	536	10
Lead	MW-1	1/7/2008	84.1	15
Lead	MW-5D	1/7/2008	26.5	15
Lead	MW-1	11/10/2006	365	15
Tetrachloroethene	MW-3	1/7/2008	2.07	0.7

SOIL

Soil contaminants in milligrams per kilogram (the equivalent of parts per million), the screening limits for which are derived from the Preliminary Industrial Health- Based Soil Remediation Goals of the Inactive Hazardous Sites Branch of DEQ's Superfund Section (September 2015 version):

Soil Contaminant	Sample Location	Depth (ft)	Date of Sampling	Maximum Concentration Exceeding Screening Limit (mg/kg)	Residential Screening Limit ¹ (mg/kg)
Arsenic	S-2	4	11/10/2006	1.7 ²	0.68
Arsenic	S-6	4	11/10/2006	3.03 ²	0.68
Arsenic	S-7	4	11/10/2006	1.3 ²	0.68
TPH-Oil & Grease	S-1	4	11/10/2006	2380 ³	250*

1. Screening limits displayed for non-carcinogens are for a hazard quotient equal to 0.2. Screening limits displayed for carcinogens are for a 1.0E-6 lifetime incremental cancer risk.
 2. Concentration is consistent with known area natural background concentrations.
 3. Additional constituent specific analyses did not detect the presence of any compounds exceeding current standards.
- * Former Underground Storage Tank Section Screening Level for TPH-Oil and Grease. No current comparison exists as more constituent specific analyses are currently required.

TAMMY THEUSCH
BEASLEY
Register of Deeds

New Hanover County Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7751



State of North Carolina, County of NEW HANOVER
Filed For Registration: 09/08/2016 02:36:12 PM
Book: RB 6000 Page: 1220-1248
29 PGS \$78.00
Real Property \$78.00
Recorder: ANDREA CRESWELL
Document No: 2016028993

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.